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~~ACTION PLAN~~  
(ISSUES AND ANSWERS)

- I. WHAT SHOULD BE THE POSITION, ROLE AND FUNCTIONS OF THE SENIOR U.S. FOREIGN INTELLIGENCE OFFICER?
- II. HOW SHOULD STRENGTHENED EXECUTIVE BRANCH OVERSIGHT OF FOREIGN INTELLIGENCE ACTIVITIES BE EXERCISED?
- III. BY WHAT MECHANISM COULD CONGRESSIONAL OVERSIGHT OF THE INTELLIGENCE COMMUNITY BEST BE EXERCISED?
- IV. HOW TO INSURE RETENTION OF COVERT ACTION CAPABILITY? WHERE SHOULD THIS CAPABILITY RESIDE?
- V. WHAT IS TO BE MECHANISM FOR PRODUCTION OF NIEs?
- VI. HOW-CAN EXECUTIVE & LEGISLATIVE BRANCHES BEST BE ASSURED THAT FOREIGN INTEL ACTIVITIES ARE CONDUCTED WITH DUE RESPECT TO THE CONSTITUTIONAL RIGHTS OF AMERICAN CITIZENS?
- VII. HOW CAN CONGRESSIONAL NEED FOR SUBSTANTIVE FOREIGN INTEL BEST BE ACCOMMODATED?
- VIII. HOW CAN WE TELL THE INTELLIGENCE STORY BETTER?
- IX. WHAT IS AGENCY POSITION ON VARIOUS DRAFT ADMINISTRATION, LEGISLATIVE PROPOSALS? HOW BEST TO MAKE CONTRIBUTIONS?
- X. WHAT SHOULD BE DCI'S PHILOSOPHY ON SECRECY? HOW AND TO WHOM SHOULD IT BE EXPRESSED? HOW SHOULD PRESENT CLASSIFICATION SYSTEM BE OVERHAULED?
- XI. WHAT ORGANIZATIONAL IMPROVEMENTS CAN BE MADE TO IMPROVE THE INTERNAL COMMAND AND CONTROL OF CIA?
- XII. SHOULD GAO HAVE AUDIT AUTHORITY OVER ALL CIA FUNDS? IF SO, HOW SHOULD SUCH AUDITS BE CONTROLLED TO AVOID DISCLOSURE SOURCES AND METHODS?
- XIII. HOW DO WE GET SOURCES AND METHODS PROTECTIVE LEGISLATION PASSED?
- XIV. WHAT IS THE PROPER CIA-FBI RELATIONSHIP? WHAT ARE THE PROPER CIA RELATIONSHIPS WITH OTHER AGENCIES: USSS, DEA, ETC.?
- XV. HOW CAN BETTER COVER ARRANGEMENTS BE PROVIDED FOR CIA PERSONNEL OVERSEAS?
- XVI. HOW CAN THE PRODUCTION OF NEW LEADS ON INTELLIGENCE BE EXPEDITED?

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ISSUES & ANSWERS  
#1

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RETURNED BY  
DCI 4/10/77

# ISSUES AND ANSWERS: ROLE AND FUNCTIONS OF THE SENIOR U.S. FOREIGN INTELLIGENCE OFFICER

[THIS REFLECTS DCI COMMENTS ON FIRST DRAFT]

## ISSUE

1. What should be the role and position of the senior U.S. foreign intelligence officer? What key organizational factors and management or other responsibilities will make this officer most effective?

## POSITION OF SELECT COMMITTEES

2. The Senate and House Select Committees have not yet held hearings which relate to this paper. Individual staff members of both committees appear to favor a stronger role for the DCI, especially in fiscal matters.

## DISCUSSION

3. Analyses approaching book-length have been written on various aspects of the problem posed by this issue. The approach taken in this paper is to omit detailed analysis or debate on the pros and cons of various alternatives. Instead, focus is put on the identification of the basic elements of the problem and feasible alternatives within each element.

4. The result has been development of the attached tabulation organized as follows:

<u>Element</u>	<u>No. Alternatives</u>	<u>Type Identifier</u>
Position in Executive Branch Hierarchy	4	I-IV
Relation to National Security Council	6	A-F
Operational Responsibilities	4	1-4
Fiscal Responsibilities	4	a-d
Responsibilities for Guidance re Information Requirements	6	(1)-(6)
Responsibilities for Production of National Intelligence	4	(a)-(d)
Responsibilities re Covert Action	5	1.-5.
Inspector General Role	3	a.-c.
Relations with the Congress	3	1/-3/
Relation to the USIB and IRAC	5	a/-e/

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5. From the tabulation, many thousands of possible combinations of roles and functions can be identified, each differing from the other in at least one of the alternatives listed.

#### RECOMMENDATION

6. It is recognized that agreement on a set of alternatives which the DCI should support will require considerable study and discussion, both within the Executive Branch and, as appropriate, with Committees of the Congress. As basis for such study and discussion, it is recommended that the DCI approve the concept of a senior U.S. foreign intelligence officer identified from the attached tabulation by the following symbols:

III B 2 a (3) (b) 3. c. 1./ a./

7. This formula translates into the following description of the proposed role and functions of the senior U.S. foreign intelligence officer:

III. Director of Central Intelligence (or other appropriate title) who serves as operational head of the central intelligence organization and as the senior U.S. foreign intelligence officer, but is not a member of internal White House Staff organization.

(This would be a continuation of the present position of the DCI, but with enhanced responsibilities, as indicated below.)

B. Intelligence Advisor to the NSC and chairman of the NSC Intelligence Committee.

2. Serves as the operating head of the CIA, and as the Executive Agent of the Government for the overall management and direction of the NSA and the NRO.

a. Develops, reviews and approves budgets for the CIA, NSA and NRO and prepares recommendations concerning the budgets of other Intelligence Community organizations. Is responsible for maximum national-departmental interaction in development of his fiscal program. Submits the overall intelligence budget to the President, through OMB. Defends before Congress the President's budget for the Intelligence Community.

(This would remove approval of the NSA and NRO budgets from the Defense Department.)

(3) Develops and issues guidance concerning information requirements for national intelligence; reviews the adequacy with which collection requirements developed by all elements of the Community reflect his guidance, and makes recommendations as to necessary improvements.

(b) Is responsible to the President for approving all national intelligence products and for the evaluation of the quality and responsiveness of such products to national needs, but shares the actual production responsibilities with other agencies.

(This assumes the senior U.S. foreign intelligence officer is also the operating head of the CIA, which retains its present production responsibilities.)

3. Serves as a member of the 40 Committee (or its equivalent), participates in the review of covert action proposals, and is responsible for the conduct of covert actions as the Director of the CIA.

c. Has no Community-wide Inspector General role.

1./ Is the chief spokesman before Congress for the Intelligence Community, including defense of the President's budget for intelligence activities and for provision of national intelligence products to the Congress in a manner worked out with the Congress and its Committees.

a./ Serves as chairman of both the USIB and the IRAC, with these bodies continuing to have their present responsibilities.

(This assumes the senior U.S. foreign intelligence officer is responsible both for national intelligence products and for preparation of the NFIP.)

#### PROPOSED ACTION

8. It is recommended that the role and functions of the senior U.S. foreign intelligence officer as outlined in paragraphs 6 and 7 above be used as the basis for:

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- a. Discussions within the White House on the Administration position with respect to forthcoming legislation and/or Executive Orders;
- b. Presentations by Executive Branch officials to the Senate and House Select Committees;
- c. Public statements by influential friends and supporters of a strong U.S. foreign intelligence program;
- d. Private discussion, as appropriate, with Senators and Congressmen who are interested in preserving a strong U.S. foreign intelligence capability.

//S//

Samuel V. Wilson  
Lieutenant General, USA  
Chairman, Action Plan Task Group

Attachment:  
as stated

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TABULATION OF BASIC ELEMENTS AND RELATED ALTERNATIVES  
WHICH DEFINE POSSIBLE FUNCTIONS AND RESPONSIBILITIES  
OF THE SENIOR U.S. FOREIGN INTELLIGENCE OFFICER

Position in Executive Branch Hierarchy

- I. Special Assistant to the President (or other appropriate title) on the White House Staff
- II. Secretary of a Department of National Intelligence with Cabinet status
- III. Director of Central Intelligence (or other appropriate title) who serves as operating head of the central intelligence organization and as senior U.S. foreign intelligence officer, but is not a member of the internal White House Staff organization. (This would be a continuation of the present position of the DCI.)
- IV. The concept of a senior U.S. foreign intelligence officer is abandoned. (The DCI, Secretary of State and Secretary of Defense would each serve as intelligence advisors to the President within their present spheres of operational responsibility.)

Relation to the National Security Council

- A. Full member of the NSC and chairman of the NSC Intelligence Committee.
- B. Intelligence Advisor to the NSC and chairman of the NSC Intelligence Committee.
- C. Advisor to the NSC and member of the NSCIC and other NSC committees/groups. (The current role of the DCI.)
- D. Advisor to the NSC, but not a member of the NSCIC.
- E. Member of the NSCIC, but not a participant in NSC sessions.
- F. No direct contact with the NSC or its committees/groups.



### Operational Responsibilities

1. Serves as the Executive Agent of the Government for the overall management and direction of all major national intelligence collection programs--but not as the operating head of any of them. (The Secretary of Defense would no longer be Executive Agent for the NSA and NRO programs. The Senior U.S. foreign intelligence officer would not be the operating director of CIA.)
2. Serves as the operating head of the CIA, and as the Executive Agent of the Government for the overall management and direction of the NSA and the NRO.
3. Serves as the operating head of the CIA, but has no Executive Agent or other operational responsibilities for any other national program.
4. None. (The senior U.S. foreign intelligence officer would have no operating or Executive Agent responsibilities, and the Director of the CIA would be a separate official.)

### Fiscal Responsibilities

- a. Develops, reviews and approves budgets for the CIA, NSA and NRO and prepares recommendations concerning the budgets of other Intelligence Community organizations. (This would remove approval of the NSA and NRO budgets from the Defense Department.) Is responsible for maximum national-departmental interaction in development of his fiscal program. Submits the overall intelligence budget to the President through OMB. Defends before Congress the President's budget for the Intelligence Community.
- b. Reviews and approves budgets for all elements of the national intelligence program. (This would leave development of program budgets as a departmental or agency responsibility as at present--the new factor being that approval by the senior U.S. foreign intelligence officer would be required.) Submits the overall intelligence budget to the President, through OMB. Defends before Congress the President's budget for the Intelligence Community.
- c. Reviews and forwards to the President, through OMB, his recommendations concerning the overall national foreign intelligence program for those elements of the program for which he does not have operating responsibility, and is responsible for maximum national-departmental interaction in development of the program recommendations. (This would be a continuation of the present DCI role as regards the NFIP, since he now approves the CIA budget and makes recommendations concerning other elements of the NFIP.)

Departmental proposals would not require approval of the senior U.S. foreign intelligence officer.

d. None. (The concept of an NFIP would be abandoned.)

Responsibilities Concerning Requirements for Intelligence Information

(1) Develops, approves and issues all requirements for the collection of national intelligence information for all major collection systems--SIGINT, imagery and human source.

(2) Develops and issues guidance concerning information requirements for national intelligence.

(3) Develops and issues guidance concerning information requirements for national intelligence; reviews the adequacy with which collection requirements developed by all elements of the Community reflect his guidance, and makes recommendations as to necessary improvements.

(4) Conducts a continuing detailed review of specific intelligence collection requirements as developed by various elements of the Community, assesses completeness of the requirements lists with respect to national intelligence needs, and submits recommendations for additions or deletions to the managers of collection activities.

(5) Reviews and evaluates the effectiveness and adequacy of the procedures used within various elements of the Intelligence Community for the development and approval of collection requirements.

(6) None.

Responsibilities for Production of National Intelligence

(a) Has sole responsibility for the production of national intelligence and is the operating head of the production organization.

(b) Is responsible to the President for approving all national intelligence products, and for the evaluation of the quality and responsiveness of such products to national needs, but shares the actual production responsibilities with other agencies. (This assumes the senior U.S. foreign intelligence officer is also the operating head of the CIA, which retains its present production responsibilities.)

(c) Has no production responsibilities, but is responsible for providing guidance to the Intelligence Community as to intelligence needs and priorities, and for the review and evaluation of the resulting national intelligence products.

(d) None.

#### Responsibilities for Covert Action

1. Heads the 40 Committee (or its equivalent) and develops recommendations for Presidential approval/disapproval of covert action proposals, but has no operational role in direction of covert actions.

2. Serves as a member of the 40 Committee (or its equivalent) and participates in review of covert action proposals, but has no role in directing conduct of covert actions.

3. Serves as a member of the 40 Committee (or its equivalent), participates in the review of covert action proposals, and is responsible for the conduct of covert actions as the Director of the CIA.

4. Serves as a member of the 40 Committee (or its equivalent), participates in the review of covert action proposals, and is the operating head of a special covert action organization separated from the CIA.

5. None.

#### Inspector General Role

a. Supported by his own IG Staff, is responsible for the conduct of such investigations as he considers appropriate, including those which will assure all organizations involved in foreign intelligence are complying with legislative and Executive Order restrictions on their activities, particularly as regards the rights of U.S. citizens. Provides the President with periodic reports for forwarding to the Congress.

b. Conduct no inspections, but be provided copies of reports prepared by the Inspectors General of the separate intelligence organizations. Based on his review of these documents, provide the President with periodic reports for forwarding to the Congress.

c. None.

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Relations with the Congress

1./ Is the chief spokesman before Congress for the Intelligence Community, including defense of the President's budget for intelligence activities and the provision of national intelligence products to the Congress in a manner worked out with the Congress and its Committees.

2./ Is the chief spokesman before Congress for the Intelligence Community on budget matters, but has no role with respect to the provision of substantive national intelligence to the Congress.

3./ Provides to the Congress only such information as the Congress may from time-to-time request; has no initiative responsibilities.

Relation to the USIB and the IRAC

a./ Serves as chairman of both the USIB and the IRAC, with these bodies continuing to have their present responsibilities. (This assumes the senior U.S. foreign intelligence officer is responsible both for national intelligence products and for preparation of the NFIP.)

b./ USIB and IRAC would be abolished, and the senior U.S. foreign intelligence officer charged to develop proposals for whatever advisory boards he considers are needed for his support.

c./ Serves as chairman of USIB, but has no relation to IRAC. (This assumes the senior U.S. foreign intelligence officer is responsible for national intelligence production, but not for preparation of the NFIP.)

d./ Serves as chairman of IRAC, but has no relation to USIB. (This assumes the senior U.S. foreign intelligence officer is responsible for the NFIP, but has no intelligence production responsibilities.)

e./ None. (USIB continues to exist as advisory to the officer responsible for the production of national intelligence. IRAC's continued existence would depend on the allocation of responsibility for preparation of the NFIP.)

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## CONGRESSIONAL OVERSIGHT

### 1. Problem

Assuming that Congress will adjust the congressional oversight status quo for the Central Intelligence Agency and/or the Intelligence Community, identify the key issues on which Administration influence should be brought to bear.

### 2. Discussion

While the need for some kind of change in congressional oversight is self-evident, there also are some sound reasons why the Executive should not become strongly, publicly assertive on the need for change.

a. In principle it is up to Congress to put its house in order. The Executive Branch should be alert to questions of executive versus legislative prerogatives, i.e., "oversight" and product receipt versus the basic executive character of intelligence.

b. Practically and politically six committees of Congress are now seized with explicit jurisdiction over the CIA alone. If the adjustment in oversight is extended to the Intelligence Community at large, beyond CIA and Defense agencies, the number of committees exercising extant jurisdiction is multiplied. Any adjustment in the oversight will directly impact on the status quo and the Executive is wise to distance itself from the resulting jockeying arising out of jurisdictional disputes.

c. Active Executive Branch support for adjustment in oversight, to the extent that a loss of extant jurisdiction is involved, could affect the ability of the key members of these status quo committees to work out suitable accommodations for themselves and will be resented on that basis.

### 3. Principles and Considerations to Guide Executive Branch Action

a. Stability: Any change should provide sufficient stability to minimize turnover of membership.

(1) Stable membership will assure sufficient long-term exposure to intelligence problems enabling the members to acquire a basis for informed judgments. It also reduces the numbers of individuals exposed to sensitive operational information. In the context of a joint committee, these considerations would argue for membership to be composed of the chairman and ranking minority member of the several committees now exercising full or substantial legislative oversight, e.g., Armed Services, Appropriations, Foreign Affairs and possibly Government Operations.

(2) Such a make up would also tend to militate against jurisdictional conflicts with existing committees which in turn could prolong an unstable and undesirable situation on the Hill permitting numerous committees to successfully assert jurisdiction, leading to further proliferation of sensitive information and undermining intelligence's capability to do its job.

b. Exclusivity: The Executive Branch must recognize the authority and responsibility of the Congress to review and study on a continuing basis the application, administration, execution and effectiveness of statutes applying to the Central Intelligence Agency and the Intelligence Community. To the extent, however, that the data base which must be made available for that review and study is in the sensitive area of intelligence sources and methods it is imperative that the oversight structure in Congress be provided exclusive jurisdiction.

(1) This imposes an added responsibility on that committee structure because not only must the members be concerned with the CIA and Intelligence Community charter, but they must also act as surrogates on a broader spectrum of interests for other committees whose jurisdictional interest may somehow be indirectly but substantially affected (i.e., security exchange, banking and currency, Internal Revenue, etc.). Carrying this surrogate responsibility requires trust between the membership of the Oversight Committee and the rest of the Congress.

(2) The Executive Branch's principal interest in exclusivity is to assure a secure environment for sensitive matters, as it relates to the success of ongoing activities, and to regain whatever credibility has been lost with cooperative governments, organizations, and individuals as to the capability of the U.S. Government to protect their confidences with us.

(3) The fact that six committees of the Congress are exercising oversight of covert actions under Section 662 of the Foreign Assistance Act amendments of 1974 unnecessarily widens the audience and increases the risk of disclosure.

(4) A joint committee, representing the interests of both Houses, would be preferable, but prerogatives of independence and pride may stand between the two Houses agreeing on such a structure.

c. Security: The absence of sound procedures and failure to come to grips with the need to establish rules governing responsible handling of classified information in the Congress has been demonstrated to the Congress as a result of incidents in both Houses. There have been some proposals to close the gap, but it is doubtful that Congress will accomplish any meaningful action at its own initiative and certainly not by the time any new oversight structure comes into being.

(1) Security is a very controversial area for the Executive to push with Congress because the prerogatives of Congress, as Congressmen see it, are being offended and because the Executive's classification system is in generally ill repute on the Hill.

(2) Nevertheless, the Executive Branch has a sound constitutional basis for being assertive in this area. It must present its interest as narrowly and as precisely as possible to avoid the trigger words, "classified," "national security," etc. The Executive position can be better expressed by stressing the need to protect confidences and the capabilities of cooperating sources and covert collection systems.

(3) The Executive objective at a minimum should be that:

(a) Such information must be limited to the membership and appropriate staff of the exclusive oversight structure;

(b) Such information is not subject to publication by the committee at its sole initiative. Any one of a number of formulas for prior consultation, providing an opportunity for the eventual assertion of executive privilege, would seem sufficient.



(c) An effective criminal deterrent, much like the Agency proposed legislation to protect against the unauthorized disclosure of sensitive intelligence sources and methods, should be enacted as part of strengthening congressional oversight. The quid pro quo of obtaining authorized access to truly sensitive intelligence sources and methods carries with it a special responsibility, the violation of which involves a sufficient "public interest" to support criminal punishment. The Joint Committee on Atomic Energy is often cited on the Hill as the model of a congressional committee which can keep good secrets secret. What must not be overlooked is that the legislation establishing that Committee also enacted the Restricted Data statute which provides the type of criminal deterrent in the Agency's draft legislation. Such legislation must be drawn with due regard for constitutional requirements and without interfering with the reporting of information or abuses to appropriate congressional or executive authorities. It also should not apply to any class of people beyond those who obtain authorized access to the sensitive information as a result of a privity of relationship to the Government, thus completely avoiding any possible conflict with First Amendment rights. Clearly, legislation on a Joint Committee on Intelligence provides an opportunity for closing a serious gap in the criminal laws of the United States.

4. Information Needed for Oversight

Any new congressional oversight committee, if it is to be in harmony with the principles outlined above, must have access to information so as to be in a position to assure the Congress and the Nation it is meeting its responsibility for watchfulness.

a. In proposing that this oversight activity be conducted for the main part outside of the public domain, the Executive Branch should recognize the Oversight Committee may feel a responsibility for digging into matters more deeply than would be the case if the normal mechanisms (press, interest groups, other committees of Congress, etc.), were not blocked from access.

b. At a minimum this will impose a positive responsibility and duty on the agency(ies) affected to be particularly sensitive to the position in which the committee and its members find themselves and to volunteer and report those things which are not normally available to the leavening of outside groups but are of interest to them.

c. On the other hand, there is a danger of leaning so far towards a congressional surveillance concept that the Oversight Committee assumes Executive responsibility. From a practical standpoint, a committee "fully and currently informed," of everything the CIA or Intelligence Community is doing, would require an enormous staff.

d. More importantly, there are aspects of CIA's work performed for the President under constitutional responsibilities he does not share with the Congress, matters which are properly subject to the exercise of Executive Privilege.

e. To apply the "fully and currently informed" concept in extremis, would inevitably lead to a conflict between the constitutional needs of the President and congressional "watchfulness." It would, therefore, appear in the best interest of both the Executive and the Congress that any new oversight structure start off on a basis with which the committee structure has the capacity to comply and still not raise separation of power problems.

f. "Fully and currently informed" represents an assertion of the maximum of congressional power (of dubious constitutionality), but it is clear that if the Congress is to back off of that concept, the Executive must be prepared to make a number of concessions beyond the normal Executive Branch/Congressional committee relationship if a new structure is to work.

##### 5. Recommendation

It is recommended that the Director of Central Intelligence:

a. Approve the concept that the Executive Branch should not become strongly and publicly assertive on the need for change in the manner in which the Congress exercises oversight of the CIA and the Intelligence Community as a whole;

b. Approve the principles and considerations to guide Executive Branch action as outlined in paragraph 3 and the points made in paragraph 4 concerning the provision of information to an Oversight Committee.

c. Support the positions outlined in paragraphs 3 and 4 in discussions with other elements of the Executive Branch involved with matters concerning Congressional oversight of intelligence activities.

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